

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MUSTAFA-EL K.A. AJALA,
formerly known as DENNIS E. JONES-EL,

Plaintiff,

v.

CRAIG TOM and MATTHEW SCULLION,

Defendants.

ORDER

13-cv-102-bbc

In this case, plaintiff Mustafa-El K.A. Ajala is proceeding on an excessive force claim against defendants Craig Tom and Matthew Scullion. On November 14, 2013, defendants filed a motion for summary judgment based on exhaustion grounds. The court initially set a deadline of December 5, 2013 for plaintiff's response and December 12, 2013 for defendants' reply. Plaintiff responded by filing a motion to amend the briefing schedule to conform with the preliminary pretrial conference order in this case, dkt. 41, which stated that defendants' reply would be due seven days after plaintiff's response—plaintiff stated that he was going to file his response much earlier than the December 5 deadline and thought that allowing defendants until December 12 to reply would lead to undue delay. I granted plaintiff's motion in a December 2, 2012 text-only order. Dkt. 49.

Plaintiff submitted his summary judgment response on November 26, 2013, which set the reply deadline at December 3, 2013. Now, defendants have filed a motion for an extension of the deadline due to counsel's confusion over the changed deadline, family emergencies and the Thanksgiving holiday occurring during the seven-day reply period. They followed up with

their reply brief on December 6, 2013. Plaintiff has filed his own motion “for the court to decide the issue of exhaustion without a reply brief from defendants.” From this filing it appears that plaintiff had not yet received a copy of defendants reply brief; because they have submitted that document, I will construe plaintiff’s motion as one to strike the reply brief.

Based on the parties’ filings, there is no good reason to deny defendants’ motion for a short extension so that the court may consider their December 6 reply. Doing so will not result in any undue delay to plaintiff and it is reasonable, given the various difficulties cited by defendants’ counsel. Accordingly, I will grant defendants’ motion for an extension of time and deny plaintiff’s motion to strike. The court will consider defendants’ reply brief in ruling on their motion for summary judgment.

ORDER

It is ORDERED that:

- (1) Defendants’ motion for an extension of time to file their reply brief in support of their motion for summary judgment, dkt. 50, is GRANTED.
- (2) Plaintiff Mustafa-EI K.A. Ajala’s motion to strike defendants’ reply brief, dkt. 53, is DENIED.

Entered this 17th day of December, 2013.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge